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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/831,097	05/03/2001	Michael Zobel	M0-6132/LEA	8436
157 7980 01/22/2004 BAYER POLYMERS LLC 100 BAYER ROAD PITTSBURGH, PA 15205			EXAMINER ASINOVSKY, OLGA	
			ART UNIT 1711	PAPER NUMBER

DATE MAILED: 01/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No. 09/831,097	Applicant(s) ZOBEL ET AL.
Examiner Olga Asinovsky	Art Unit 1711

- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within this set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 14 October 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-6, 17-24 and 26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6, 17-24 and 26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. §§ 119 and 120

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- ☒ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

**DETAILED ACTION**

***Claim Rejections - 35 USC § 112***

1. Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 discloses a polymer prepared from at least one ethylenically unsaturated monomer wherein a said polymer can be a homopolymer having both fine particles having a particle diameter of 0.04 to 1 micron and coarse portions having a particle diameter of from 200 to 500 microns. A homopolymer can be prepared by emulsion polymerization. A latex-homopolymer is produced by the emulsion polymerization technique wherein the latex has a fine particle size of 0.04 to 1 micron. It is unclear how to prepare the same homopolymer having a coarse particle diameter of from 200 to 500 microns under the same conditions. Therefore, a term "a polymer" in the preamble of the claim is indefinite. Because it is a thermoplastic composition=product having fine particles and coarse particles produced from the same homopolymer or copolymer. Claims 2-6, 17-24 and 26 are rejected in light of their dependency directly or indirectly upon the rejected above claim 1.

The new search has been made.

***Claim Rejections - 35 USC § 102***

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-6, 17-24 and 26 are rejected under 35 U.S.C. 102(b) as being anticipated by Witmann et al US Patent 5,552,465.

3. Witmann discloses a thermoplastic molding composition comprising crosslinked particulate diene rubber (B) having an average particle diameter from 0.05 to 2 microns and preferably from 0.1 to 0.6 micron, column 1, line 21. The particulate diene rubber is grafting with styrene, acrylonitrile, methyl methacrylate, column 1, lines 22-23. The obtained graft copolymer is readable in applicants' claim 1 as a copolymer. The particulate diene rubber is readable in applicants' claim 1 as a homopolymer having the specified particle diameter in the range of 0.4 to 0.6 micron. A thermoplastic molding composition contains a fluorinated polyolefin (E) having average particle diameters of 0.05 to 1000 microns, column 1, lines 60-62. The average particle diameters of the component (E) is overlapping a particle diameter ranges from 50 to 500 microns in applicants' claims. The content from 0.05 to 5 parts of the component (E) based on 100 parts by weight of A+B+C components is readable in applicants' claims. Also, the component (E) can be present in the form of powder having an average particle diameter of 100 to 1000 microns, column 13, lines 1-3. Thermoplastic aromatic polycarbonate, aromatic polyester carbonate, aromatic polyester in Witmann's invention are readable in applicants' claimed thermoplastic molding compositions 17-24 and 26. An additive such as a phosphorus compound (D) is readable as a flameproofing agent in the present claim 23.

The rejections over the reference Korte et al' 4,426,499 and Castelnuovo et al' 3,919,353 are withdrawn. The examiner agrees that these references disclose a big amount of coarse portions of polymer particles.

In light of the new rejection, this office action is not final.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Olga Asinovsky whose telephone number is 571-272-1066. The examiner can normally be reached on 9:00 to 5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Seidleck can be reached on 571-272-1078. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

J. A.

O.A.  
January 2, 2004

Olga Asinovsky  
Examiner  
Art Unit 1711

  
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Examiner  
Art Unit 1711